THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16836 OF 2005

DATED 10th March, 2006

BETWEEN

Chintada Peter S/o Ch.Polaiah and another

… Petitioners

and

Government of Andhra Pradesh, rep. by its Secretary, Revenue (Assignment) Department, Secretariat, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.16836 OF 2005

ORDER:

The first petitioner is a retired Havildar of Indian Army. The second petitioner, who is son of first petitioner, is a retired Sergeant. They filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents in not assigning lands admeasuring Acs.5.00 each in Survey No.12/P of Jawaharnagar village, Shamirpet Mandal in Ranga Reddy District as illegal and arbitrary, and for a consequential direction for allotment of such land. They also seek a declaration that the action of the respondents in trying to dispossess the petitioner without due process of law is illegal and arbitrary.

In brief, it is the case of the petitioners that they were assigned land to an extent of Acs.5.00 each in survey No.12/P in Jawaharnagar Cooperative Land Colonization Society, that they have developed the land and carrying on agricultural operations, and that when the respondents tried to evict the petitioners in 1989, the petitioners claimed the land as ex-servicemen and as advised, the petitioners submitted a claim

petition on 15.07.1989 for appropriate assignment of land. They also alleged that on 10.06.2005, the fourth respondent tried to evict the petitioners highhandedly and the present writ petition is filed.

The Revenue Divisional Officer, third respondent herein, filed counter affidavit denying the assignment and possession of the petitioners. It is also stated that the land, which was initially allotted to Jawaharnagar Cooperative Land Colonization Society, is resumed for contravention of conditions of assignment and re-assigned to public sector organizations.

After hearing the learned counsel for the petitioners and the learned Assistant Government Pleader, who brought to the notice of this Court a Judgment in W.P.No.3912 of 1992 and batch, dated 25.03.2004, wherein this Court was of the opinion that various disputed questions of fact need not be decided in the said cases and this Court also considered various aspects in relation to assignment of lands to a large number of ex-servicemen. Having noticed the irregularities in assigning the lands to various persons, who were allegedly ex-servicemen and having noticed that some of the lands were in possession of those persons who are not eligible for assignment, this Court disposed of the writ petitions in the following manner.

> (i) Wherever the Ex-serviceman has actually in possession of the land and has brought the land under cultivation within a period of three years from the date of allotment to JCLCS, the Mandal Revenue Officer shall consider the case and regularize the possession by issuing D-form patta in favour of Ex-serviceman or his legal heir wherever necessary;
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> (ii) It shall be open to all the Ex-servicemen who are petitioners before this Court to appear before the Mandal Revenue Officer, Shamirpet Mandal on 15.04.2004 with a representation and necessary material with regard to the status as Ex-serviceman, and with regard to possession and other particulars when the Mandal Revenue Officer may fix a date for proper enquiry and complete the enquiry within a period of two months thereafter;
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> (iii) The Mandal Revenue Officer shall submit a detailed report containing case-wise details to the Joint Collector, Ranga Reddy District who shall sanction/issue patta to eligible Ex-servicemen. Till this enquiry is completed, there shall be status quo as on today with regard to possession.
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> (iv) Insofar as writ petitions in the third group mentioned hereinabove i.e., W.P.Nos.17041 of 2002, 24015 of 2002, 24819 of 2002, 25681 of 2002, 962 of 2003, 2369 of 2003, 13312 of 2003, 14580 of 2003, 18491 of 2003 and 18703 of 2003, the matters are disposed of giving liberty to all the petitioners to seek appropriate relief, from the Mandal Revenue Officer for assignment of land. As the allegation that they re in possession of the land is denied, no orders as to possession can be passed in their favour, and the interim orders passed by this Court stand vacated;
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> (v) It shall be made clear that in no case Ex-serviceman or any other person shall be allotted more than Acs.5.00 of agricultural dry land or acs.2.50 of wet land; and
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> (vi) As it is reported that in W.P.Nos.23914 of 2002, 20427 of 2003 and 21470 of 2003, the petitioners purchased land admeasuring less than 400 Sq.yards from Ex-servicemen for the purpose of construction of house,

if they are eligible under relevant Government orders, on payment of market value, their cases may be considered.

Both the counsel would submit that this writ petition may also be disposed of in the above terms. This writ petition is also disposed of accordingly. The possession of the petitioners is denied by the learned Assistant Government Pleader based on the averments made in the counter affidavit filed by the Revenue Divisional Officer. Therefore, if the land is in possession of the petitioners and it is not already allotted to other public organizations, there shall be *status quo* as on today. The enquiry ordered as above shall be completed within a period of six months from the date of receipt of a copy of this order. No costs.

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(V.V.S.RAO,J)

10.03.2006

pln